THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26103 of 1997

DATED: 28.03.2007

Between:

The Executive Engineer,
Panchayat Raj, Bodhan and another. .. Petitioners

And

The Labour Court-II, A.P.,
Hyderabad and another. .. Respondents

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WRIT PETITION No.26103 of 1997

ORDER:

This Writ Petition is filed questioning the award passed by the Labour Court-II, A.P. Hyderabad, in I.D.No.817 of 1992, dated 06.01.1997, whereby the petitioners herein were directed to reinstate the 2nd respondent into service by giving fresh appointment, without any benefits.

(2) The 2nd respondent was appointed as N.M.R. workman in the petitioners' Establishment in the month of 1984 and he worked upto October, 1987 and later, his services were orally terminated. Questioning the said termination, I.D.No.817 of 1992 [I.D.No.118/92 (old)] was filed before the Labour Court-II, A.P., Hyderabad-1st respondent.

(3) The 2nd respondent herein raised the contention before the Labour Court that his termination was not preceded by any notice or payment of retrenchment compensation as envisaged under Section 25 (F) of Industrial Disputes Act, 1947 (for short 'the I.D. Act'). In support of his contention that he has worked for more than 240 days in a year and that his services were orally terminated, he got Exs.W1 to W4 marked and examined himself as WW.1. On analysis of the evidence on record, the 1st respondent, Labour Court, held that the 2nd

respondent, who had put in 240 days of service, was retrenched without following the provisions under Section 25 (F) of the I.D. Act. However, the Labour Court directed that the 2nd respondent shall be given fresh appointment without backwages and other benefits. Questioning this award, the present Writ Petition is filed.

(4) Heard the learned Assistant Government Pleader for Panchayat Raj and Rural Development and Sri A.K.Jayaprakash Rao, learned counsel for the 2nd respondent.

(5) The learned Assistant Government Pleader reiterated the contentions raised before the Labour Court by arguing that the 2nd respondent has failed to report to the duty of his own accord and there was no termination. From the award, it is evident that the Labour Court has taken into consideration the admissions of MW.1 and MW.2, who were examined as Management witnesses, whereby they have admitted that the 2nd respondent has worked for more than 240 days during the relevant period, and also on the basis of further evidence, held that the 2nd respondent's services were terminated without following the provisions of Section 25 (F) of the I.D.Act, 1947. As these findings are arrived at on the basis of the analysis of evidence, this Court exercising jurisdiction under Article 226 of the Constitution of India would not re-appreciate the same in order to come to a different conclusion.

(6) For the aforementioned reasons, the Writ Petition fails and is accordingly dismissed. No costs.

(**C.V.NAGARJUNA REDDY,J)**

28.03.2007.

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